

CONCERNS ABOUT THE EFFECTS OF HB 322

- Savings Account proposals have limited accountability—either for fraud or for educational quality and outcomes.
- This proposal lacks transparency. Parents need facts and access to the complete record of an alternative school or tutoring situation in order to make sound decisions. Private schools and tutors have minimal public reporting requirements.
- Parents give up rights when they leave the public schools. There would be no guarantee that their child would be accepted in a private school or by a private tutoring service. If things go wrong in a private situation, a family's only option is to return to the public school or perhaps home-school.
- Private settings do not have to provide related services such as therapies or assistive technology. Even if a student has an IEP, the private provider would have no legal obligation to follow it and the parents would have no recourse to hold the private provider accountable.
- Private providers will not necessarily have the professional training and licenses that providers in public schools must have.
- Private providers are not required to keep a student with disabilities safe from harmful and abusive practices like seclusion and restraint. These protective laws do not apply to private schools.
- With less special education funding, local school districts—particularly in school districts where the mill value is low—will face additional hardship
- The students with disabilities who continue to go to public schools and do not take advantage of the Savings Account option may be adversely impacted because has been taken away from public schools. The students who remain in the public schools are likely to be those who are the most difficult and expensive to serve.
- Disability service providers (e.g., speech/language pathologists, school psychologists, physical therapists, occupational therapists) can double dip. There will be a financial incentive to establish private schools, perhaps combining the Savings Account money with Medicaid money for autism or other disability services and making profit using taxpayer dollars without accountability for results.
- Unregulated private schools will expand as they have in other states, but they can turn away students with more severe or complex disabilities in favor serving students who are easier and less expensive to serve. Public schools cannot turn any student away.
- In the Savings Account proposal, eligible students can keep the funds in their accounts until they are 24. This means if the student no longer needs special education services, he or she can still collect public tax dollars for their entire school career and into postsecondary years.

IDEA Eligibility Categories

The disability categories listed in IDEA are:

- autism;
- deaf-blindness;
- deafness;
- emotional disturbance;
- hearing impairment;
- cognitive disability;
- multiple disabilities;
- orthopedic impairment;
- other health impairment;
- specific learning disability;
- speech or language impairment;
- traumatic brain injury; or
- visual impairment (including blindness)

Section 504

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (ED). Section 504 provides: "No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance"

Section 504 Eligibility

Section 504's definition of disability is broader than the IDEA's definition. To be protected under Section 504, a student must be determined to:

- have a physical or mental impairment that substantially limits one or more major life activities; *or*
- have a record of such an impairment; *or*
- be regarded as having such an impairment.

Section 504 requires that school districts provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities, regardless of the nature or severity of the disability. Under Section 504, FAPE means providing regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met.